

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

ARBITRATION – Suits - Settlement of decree in O.S.No.326/95, dated 31-08-2001 of the Vth Senior Civil Judge, City Civil Court, Hyderabad with Sri A.V.S.V.Prasada Raju, Contractor in respect of the work EWE forming embankment lining and construction of structures from KM 16.000/17.056 to 22.000/26.067 of Srisailem Right Branch Canal covered under Agt.No.18/SE-88-89, dated 27-12-1988 – Sanction an amount of Rs.2,65,00,000/- as full and final settlement – Orders - Issued.

IRRIGATION & COMMAND AREA DEVELOPMENT(ARB)DEPARTMENT

G.O.Ms.No. 17

Dated the 18th February, 2010.
Read the following:-

1. From Sri A.V.S.V.Prasada Raju, Contractor, Hyderabad, representation dated 06-02-2009.
2. From the C.E.(P), Irrigation, Kurnool, Lr.No.CE(P)/Irrgn./ kNL/TS/DEE.2/SRBC Arb/55, dated 20-02-2009.
3. Govt.Memo.No.3136/ARB./09-2, dated 26-02-2009.
4. From the ENC, (Med.Irrgn.), Hyd., Lr.No.ENC/Med/ DCEIII/ OT1 ARB-16/2009, dated 28-07-2009 and dated 28-09-2009.

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O R D E R:

Sri A.V.S.V.Prasada Raju, Contractor, Hyderabad, in the reference first read above has stated that the work "Earth work Excavation and forming Embankment Lining and construction of structures from K.M.16.000/ 17.056 to KM.22.000/26.067 of Srisailem Right Branch Canal, was awarded to him. During the course of the execution of work certain disputes have arisen between the parties. Since the contract was illegally terminated, he was constrained to file O.S.No.421 of 1992 for declaration that the proceedings issued by the S.E. are null and void and injunction restraining the Defendants therein from initiation of any further action etc. Thereafter, he was filed O.S.No.326 of 1995 before the Hon'ble Vth Senior Civil Judge, City Civil Court, Hyderabad seeking recovery of money. Apart from the above he has filed two more suits which were adjudicated by the above said Court and passed a common Judgment dt.31.08.2001 decreeing the suit O.S.No.421 of 1992 as prayed for and O.S.No.326 of 1995 decreed partly for a sum of Rs.3,65,60,989/- and awarded future interest thereon at 15% p.a. from the date of the suit till the date of realization. The suit O.S.No.45 of 1992 filed by the Contractor for appointment of Arbitrators was dismissed. He has also stated that aggrieved by the common judgement and partial decree in O.S. No.326 of 1995, the Department, filed CCA No.19 of 2002 and he has filed cross objections so far held against him. The Hon'ble High Court while granting interim stay of the decree, directed the Dept. to deposit 35% of the decretal amount. He has further submitted that the Honble High Court upon hearing the matter was pleased to pass orders on 29.01.2009 and directed him to file a comprehensive representation before Prl. Secretary to Government, for conciliation and settlement of the matter. He has, therefore, requested to do so.

2. The Chief Engineer (P), Irrigation, Kurnool, in the reference second read above, has stated that the site was handed over to the contractor on 08-02-1989 and the contract period was expired on 07-02-1992. As the work was not completed, the Contractor has sought for extension of time on unjustifiable grounds. The Department refused it. The Superintending Engineer has issued final notice to the Contractor. Thereupon, the Contractor filed O.S. challenging the proceedings of the Superintending Engineer, SRBC Circle No.1, Nandyal. Prior to that, the Contractor filed O.S. No.45/1992 seeking appointment of Arbitrator to decide the disputes. Again the contractor filed O.S.No.326/95 challenging his expulsion from the contract on issuing of G.O.Ms.No.137, I&CAD (P.W) SRSB.II) Department, dated 22-06-1993. The Plaintiff filed a Suit claiming Rs.6,03,39,464/- together with interest and also for issuance of perpetual injunction restraining the

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Department from en-cashing Bank Guarantees issued from time to time. The Contractor has made certain claims. But, all the claims put forth by the contractor were rejected by the Dept. by filing counter to the affidavit, but the Hon'ble Vth Senior Civil Judge, City Civil Court, Hyderabad has awarded for Rs.3,65,60,989/- with 15% interest to the Contractor in the O.S. No.326/95 from date of filing of suit. It was also ordered therein that the Department is entitled to adjust advance mobilization loan bank guarantee amount of Rs.114.15 lakhs from out of the decretal amount granted in favour of Contractor. But aggrieved with the orders of the Hon'ble Court, the Learned Advocate General has filed appeal in the Hon'ble High Court on 30.01.2002 for the stay on the order issued by Hon'ble City Civil Court, Hyderabad. The Hon'ble High Court granted interim stay on 30-01-2002 with a direction to deposit 35% of decretal amount. The Government have moved SLP in the Hon'ble Supreme Court of India and same was disallowed. Accordingly, the Dept. has deposited Rs.2,19,09,000/- in City Civil Court, Hyderabad. The Contractor has filed further E.P to pay differential amount from 31-01-2002 to 28-06-2002 i.e, the date on which the decretal amount was deposited. Accordingly, as per court order an amount of Rs.24,51,401/- was deposited in City Civil Court, Hyderabad.

3. In the reference third read above, in view of the Hon'ble High Court Order, dated 29.01.2009, the representation of the Contractor and as per the report of the Chief Engineer(P), Irrigation, Kurnool, the case has been referred to the Conciliation Committee for Rayalaseema Region for amicable settlement.

4. The Engineer-in-Chief, Medium Irrigation, Hyderabad in the reference fourth read above, has furnished the report of the Committee. Wherein, the Conciliation Committee for Rayalaseema Region, after negotiation with the Contractor, has recommended an amount of Rs.2,66,51,449/- as full and final settlement of the case and obtained the consent from the Contractor.

5. In compliance with the orders of Hon'ble High Court, the Principal Secretary to Government has conducted final conciliation with the contractor on 26-08-2009 and the contractor has agreed for an amount of Rs.2,65,00,000/- as full and final settlement of the case. Accordingly, the Contractor has furnished his consent on the notarized affidavit through the Engineer-in-Chief, Medium Irrigation, Hyderabad wherein, the Contractor, while agreeing the conciliated amount, has declared that he will withdraw all his legal proceedings in Hon'ble High Court of Andhra Pradesh or in any other Courts, if the said amount (i.e.Rs.2,65,00,000/- inclusive of Principal and interest) in all as lumpsum is paid to him by the Government, as agreed in token of settlement of the arbitration case pending in courts.

6. After careful examination of the matter, Government hereby sanction an amount of Rs.2,65,00,000/- (Rupees two crores sixty five lakhs only) towards full and final settlement of the decree in O.S. No.326/95, dated 31-08-2001 of the Vth Senior Civil Judge, City Civil Court, Hyderabad with Sri A.V.S.V. Prasada Raju, Contractor in respect of the work Earth Work Excavation and forming embankment lining and construction of structures from KM 16.000/17.056 to 22.000/26.067 of Srisailem Right Branch Canal covered under Agreement No.18/SE-88-89, dated 27-12-1988.

7. The above sanctioned amount shall be debited to the following Head of Account:

"M.H.2701 Capital Outlay on Major and Medium Irrigation (Commercial) scheme including in the plan MH 123 SRBC Scheme including in the plan GH 11 NSP Scheme - SH 27 Canals and distributaries - 530 Major works and 531 other expenditure".

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8. The Chief Engineer, (Projects), Irrigation, Kurnool, is directed to arrange to pay the amount sanctioned at para (6) above to Sri A.V.S.V.Prasada Raju, Contractor duly deducting the amounts that are recoverable on whatsoever account.

9. This order issues with the concurrence of Finance (W&P) Department, vide their U.O.No. 393/F4(1)/10-1, dated 16-02-2010.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.P.TUCKER
PRINCIPAL SECRETARY TO GOVERNMENT

To

The Chief Engineer (P), Irrigation, Kurnool.

The Director of Works Accounts, A.P., Hyderabad.

Sri A.V.S.V.Prasada Raju, Contractor, Flat No.304, Meenakshi Royal Court,

Road No.11, Banjara Hills, Hyderabad -34.

Copy to:

Finance (W&P) Dept. (with a request to release the
LOC for the sanctioned amount).

I & CAD (P&B) Department.

The Accountant-General, Andhra Pradesh, Hyderabad.

The Learned Advocate-General, High Court of A.P.,
High Court Buildings, Hyderabad.

The Government Pleader for Arbitration, High Court of A.P.,
High Court Buildings, Hyderabad.

S.C. S.F.

//FORWARDED :: BY ORDER//

SECTION OFFICER